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9 *Thomas W. McNamara*

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 FEDERAL TRADE COMMISSION,
13 Plaintiff,
14 v.
15 CONSUMER DEFENSE, LLC, et al.,
16 Defendants.
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Case No. 2:18-cv-00030-JCM-BNW

**DECLARATION OF THOMAS W.
MCNAMARA IN SUPPORT OF
RECEIVER'S FINAL REPORT AND
APPLICATION FOR: (1) DISCHARGE
OF RECEIVER, AND (2) APPROVAL OF
FINAL FEE APPLICATION**

1 I, Thomas W. McNamara, hereby declare as follows:

2 1. I am the Court-appointed Receiver in this matter. I have personal knowledge of
3 the facts set forth in this declaration except where, as noted, those facts have been obtained by
4 staff acting at my direction. If called as a witness, I could and would competently testify to the
5 facts stated herein. I make this Declaration in support of the Final Report, Application for
6 Discharge, and Approval of Final Fee Application.

7 2. I was appointed as the Receiver of the Receivership Entities on January 10, 2018
8 with the Court's entry of a Temporary Restraining Order with Asset Freeze, Appointment of
9 Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction
10 Should Not Issue. *See* ECF No. 12 ("TRO"). My appointment was confirmed, and the
11 temporary designation removed, by the Preliminary Injunction entered February 20, 2018 (ECF
12 No. 55, "PI").

13 **Final Report**

14 3. I have completed my duties and filed a Final Report. That Final Report recounts a
15 summary of my service as Receiver and incorporates by reference the prior reports, applications,
16 and motions filed with the Court.

17 4. The Final Report also includes a Receipts and Disbursements Summary for the
18 full period of my service through September 30, 2021 which indicates net cash in the
19 receivership account of \$1,116,016.57.

20 5. The professional services related to these activities are further detailed in the
21 respective invoices submitted with this Fee Application.

22 **Final Fee Application**

23 6. Receivership activities during the 18-month period April 1, 2020 through
24 September 30, 2021 covered by this Application include selling the real properties owned by
25 Receivership Entities and resolving issues related to each, detailed analysis of the mortgage loans
26 held by Receivership Entity American Home Loans, LLC ("AHL") and extensive
27 communications with consumers to settle outstanding loans, identifying a buyer for the three

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1 remaining defaulted mortgages, and selling the remaining assets (including two vehicles,
2 artwork, and jewelry).

3 **Fees and Expenses of the Receiver and his Professional Staff**

4 7. The total fees for my time as Receiver and my professional staff during this
5 period are \$53,641.50 as set forth in the invoice from Regulatory Resolutions which is attached
6 as Exhibit B. That invoice includes services provided by the following personnel:

- 7 a. Receiver. My fees as Receiver total \$7,387.50 which reflect a total of
8 19.7 hours at \$375 per hour (a large discount from my standard rate of
9 \$595 per hour). During this period, I coordinated and reviewed activities
10 of the receivership team, including many functions for which I did not bill.
- 11 b. Accountant. Lisa Jones is a Certified Insolvency and Restructuring
12 Advisor and Certified Fraud Examiner with more than 20 years'
13 experience in the insolvency and restructuring industry with a wide range
14 of experience in forensic accounting, litigation support, and discovery.
15 She worked extensively on the AHL mortgage portfolio, performing a
16 detailed analysis of Receivership Entities' records to understand the
17 background of each mortgage or promissory note, the loan costs incurred
18 by Mr. Hanley, and the payment history, as well as confirming the chain
19 of title for each mortgage, and the specific recording requirements for
20 mortgages that reached settlement with the Receiver. She also analyzed
21 and reconciled the financial reports and bank statements provided by the
22 property manager for the Park City Condo. Her fees of \$46,254.00 reflect
23 237.2 hours at \$195 per hour.

24 8. The invoice from Regulatory Resolutions also includes expenses totaling \$827.64,
25 as detailed in Exhibit B. The principal components of those expenses are related to FedEx
26 charges related to resolution of the AHL mortgages and asset sales (\$543.86) and notary services
27 also related to resolution of the AHL mortgages (\$255.00).

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Fees and Expenses of the Receiver's Counsel McNamara Smith LLP

9. The fees for my counsel, McNamara Smith LLP ("McNamara Smith"), are \$83,125.00, detailed in Exhibit C. The McNamara Smith attorneys have substantial experience with issues revolving around regulatory receiverships and has been directly involved in all receivership activities and their services are more thoroughly described in the invoices in Exhibit 2. In particular, during this period activities included overseeing the sale of both the Park City Condo (including resolution of Velocity Capital's payoff demand) and the Sandy Office Building (including negotiating and reaching a resolution with Olmsted Capital, LLC regarding the outstanding promissory note), working with consumers holding mortgages or promissory notes in the AHL mortgage loan portfolio, research and vetting of companies to sell the three remaining AHL defaulted mortgages, and selling remaining assets.

10. Mr. Greene's fees of \$57,060.00 reflect 126.8 hours at \$450 per hour; Mr. Chang's fees of \$12,075.00 reflect 34.5 hours at \$350 per hour; Ms. Gordon's fees of \$5,135.00 reflect 15.8 hours at \$325 per hour; legal analyst Mr. Magee's fees of \$350.00 reflect 2 hours at \$175 per hour; and paralegal Ms. Carroll's fees of \$8,505.00 reflect 48.6 hours at \$175 per hour.

11. The invoice from McNamara Smith also includes expenses of \$212.49, as detailed in Exhibit C. The primary components of those expenses relate to online research (\$129.39) and postage (\$68.10).

Fees and Expenses of the Receiver's Local Counsel Ballard Spahr LLP

12. The fees for my local counsel, Ballard Spahr LLP, are \$141.52, as detailed in Exhibit D. Ballard Spahr acts as local Nevada counsel and provided assistance in various court filings.

13. I submit to the Court that the identified services provided by me, as Receiver, and by the other designated professionals, were necessary and appropriate and brought significant value to the receivership. I have monitored the efforts of the team and have reviewed and approved the invoices which are the subject of this Final Fee Application. I request that the Court approve immediate payment of these invoices.

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